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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/935,475	08/22/2001	Mark W. Hendricksen	Radpat	8985
7590 08/26/2004				
Mark W. Hendricksen 10805 E. 22nd Avenue Spokane, WA 99206			EXAMINER LEE, JOHN J	
			ART UNIT 2684	PAPER NUMBER
			DATE MAILED: 08/26/2004	

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/935,475

Applicant(s)

HENDRICKSEN, MARK W.

Examiner

JOHN J LEE

Art Unit

2684

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 May 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-53 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-53 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 May 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. Applicant's arguments with respect to claims 1 – 53 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. **Claims 1 – 9** are rejected under 35 U.S.C. 102(e) as being anticipated by Scrivens et al. (US Patent number 6,728,518).

Regarding **claim 1**, Scrivens discloses that radio apparatus (Fig. 1).

Scrivens teaches that an outer encasement (26 in Fig. 1). Scrivens teaches that a radio signal receiver (10 in Fig. 1) secured relative to the outer encasement (26 in Fig. 1) (column 2, lines 12 – 45 and Fig. 1, 2) and configured to receive at least one radio signal (column 2, lines 12 – 45 and Fig. 1, 2, where teaches a receiver receives broadcast radio signal and communicates such signal to receive).

Scrivens teaches that an audio output (16 in Fig. 1) device (speaker) operatively connected to the radio signal receiver (Fig. 1) (column 2, lines 12 – 45). Scrivens teaches that the radio signal receiver may be limited to receive a predetermined

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radio signal frequency (receiver can tuned to AM or FM frequency ranges and by making receiver a single, fixed frequency device, receiver can be pre-tuned during manufacture to reduce errors in the system) representing broadcast services of a single radio station (30 in Fig. 1) (column 3, lines 13 – column 4, lines 9 and Fig. 1, 2) such that a user of the radio apparatus may not readily change that the radio signal receiver is limited to receiving a predetermined radio signal frequency, thereby limiting the audio output to play only the broadcast services of the single radio station (column 3, lines 13 – column 4, lines 9, Fig. 1, 2, and column 1, lines 50 – column 2, lines 2, where teaches the system includes a transmitter for broadcasting the signal , and code mechanism can prevent unauthorized receipt of the broadcast signal).

Regarding **claim 2**, Scrivens discloses that the outer encasement defines a promotional identifier of one of broadcast services and non-broadcast services (Fig. 1, 2 and column 2, lines 12 – 55, where teaches recognizable shape to provide the functional identification with specific event correlating to the broadcast radio signal).

Regarding **claim 3**, Scrivens discloses that a promotional identifier of one of broadcast services (broadcast radio services) and non-broadcast services is operatively attached to the outer encasement (Fig. 1, 2 and column 2, lines 12 – column 3, lines 12).

Regarding **claims 4**, Scrivens discloses that the outer encasement defines a promotional identifier of one of broadcast services and non-broadcast services and

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further includes a promotional identifier of the other of broadcast services and non-broadcast services (Fig. 1, 2 and column 2, lines 12 – column 3, lines 12).

Regarding **claim 5**, Scrivens discloses that the radio signal receiver is configured to only receive the broadcast signal of a pre-determined frequency, representing broadcast services of the radio station (column 3, lines 13 – column 4, lines 9, Fig. 1, 2, and column 1, lines 50 – column 2, lines 2).

Regarding **claim 6**, Scrivens discloses that the radio signal receiver is configured to multiple broadcast signals of different frequencies, and the audio output is configured to only output radio signals received of the pre-determined frequency, representing broadcast services of the radio station (column 3, lines 13 – column 4, lines 9, Fig. 1, 2, and column 1, lines 50 – column 2, lines 2).

Regarding **claim 7**, Scrivens discloses that the audio output is set to only output radio signals received of the predetermined frequency through a mechanical setting (user can tune see abstract) of the audio output to the predetermined radio station (column 3, lines 13 – column 4, lines 9, Fig. 1, 2, and column 1, lines 50 – column 2, lines 2).

Regarding **claim 8**, Scrivens discloses that the audio output is set to only output radio signals received of the predetermined frequency through an electronic setting of the audio output to the predetermined radio station (column 3, lines 13 – column 4, lines 9, Fig. 1, 2, and column 1, lines 50 – column 2, lines 2).

Regarding **claim 9**, Scrivens discloses that the audio output is limited to a predetermined radio signal frequency representing broadcast services of a radio

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station by position a frequency tuner in the outer encasement such that once the tuner is set to a pre-determined radio signal frequency representing broadcast services of a radio station and the outer encasement closed, the tuner is not normally accessible by a user of the radio apparatus (column 3, lines 13 – column 4, lines 9, Fig. 1, 2, and column 1, lines 50 – column 2, lines 2).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. **Claims 10 – 53** are rejected under 35 U.S.C. 103(a) as being unpatentable over Scrivens in view of Okamoto (US Patent number 6,697,631).

Regarding **claim 10**, Scrivens discloses all the limitation, as discussed in claim 1. Furthermore, Scrivens further discloses that a tuner (12 in Fig. 1) operatively connected to the antenna configured to only receive one of a pre-determined radio signal frequency from the antenna (18 in Fig. 1) (column 3, lines 13 – column 4, lines 9, where teaches receiver can be tuned to AM or FM frequency and the receiver can be pre-tuned during manufacture to reduce errors in the system). Scrivens teaches that a demodulator disposed to receive the radio signal from the antenna (inherently the receiver has a demodulator since the antenna receives radio modulation signal see column 2, lines 12 – 55 and Fig. 1, 2). Scrivens teaches that an amplifier operatively connected to the demodulator to

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receive the radio signal from the demodulator and to create an amplified radio signal (Fig. 1, 2 and column 1, lines 50 – column 2, lines 2, where teaches detecting the broadcast signal and configuring and generating an amplified signal). Scrivens teaches that an audio output (16 in Fig. 1) operatively connected to the amplifier to receive the amplified radio signal from the demodulator (Fig. 1, 2, column 2, lines 12 – 55, and column 1, lines 50 – column 2, lines 2, where teaches detecting the broadcast signal and configuring and generating an amplified signal and a speaker receives the electrical signal and generates an audible signal).

Scrivens does not specifically disclose the limitation “a demodulator disposed to receive the radio signal from the antenna”. However, Okamoto more specifically discloses the limitation “a demodulator disposed to receive the radio signal from the antenna” (abstract and Fig. 1, where teaches radio frequency signal received and demodulated in a receiver section). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the Scrivens system as taught by Okamoto. The motivation does so would be to provide enhancing the radio signals for qualify outputting audible signal in radio communication system.

Regarding **claim 11**, Scrivens discloses that the audio output device transmits the broadcast services of one radio station (Fig. 1, 2, column 3, lines 26 – 38, and column 1, lines 50 – column 2, lines 2).

Regarding **claim 12**, Scrivens and Okamoto disclose all the limitation, as discussed in claim 10. Furthermore, Scrivens further discloses that the

demodulator is a diode (inherently the receiver has a demodulator can be made by diode see column 2, lines 12 – 55 and Fig. 1, 2).

Regarding **claims 13, 20, and 40**, Scrivens discloses that the radio apparatus is miniature (Fig. 1, 2 and column 1, lines 50 – column 2, lines 2).

Regarding **claim 14**, Scrivens and Okamoto disclose all the limitation, as discussed in claims 1 and 2.

Regarding **claim 15**, Scrivens and Okamoto disclose all the limitation, as discussed in claims 1 and 3.

Regarding **claim 16**, Scrivens and Okamoto disclose all the limitation, as discussed in claims 1 and 4.

Regarding **claim 17**, Scrivens and Okamoto disclose all the limitation, as discussed in claims 1 and 10.

Regarding **claim 18**, Scrivens discloses that the tuner is configured to only receive one of a pre-determined AM and FM radio signal frequency from the antenna with an electronic tuner lock (Fig. 1, 2 and column 3, lines 13 – column 4, lines 9).

Regarding **claim 19**, Scrivens and Okamoto disclose all the limitation, as discussed in claims 1 and 10. Furthermore, Scrivens further discloses that distributing the radio apparatus to one of existing and prospective listeners of the source (broadcasting the services for users) of the radio broadcast services being promoted (providing the variable services), thereby promoting the broadcast services (column 2, lines 46 – column 3, lines 12 and Fig. 1, 2).

Regarding **claims 21 and 41**, Scrivens discloses that the promotional element is an indicia which indicates the source of the broadcast services (column 2, lines 46 – column 3, lines 12 and Fig. 1, 2).

Regarding **claims 22 and 43**, Scrivens discloses that the encasement further includes a second promotional element which is an indicia from a non-broadcast advertiser (column 2, lines 30 – column 3, lines 12 and Fig. 1, 2).

Regarding **claim 23**, Scrivens discloses that the promotional element is an indicia which indicates the source of non-broadcast services (column 2, lines 30 – column 3, lines 12 and Fig. 1, 2).

Regarding **claims 24 and 44**, Scrivens and Okamoto disclose all the limitation, as discussed in claims 1 and 2.

Regarding **claim 25**, Scrivens discloses that the broadcast services are those of a non-profit organization (a broadcast station can be public or religious station) (column 2, lines 30 – column 3, lines 12 and Fig. 1, 2).

Regarding **claim 26**, Scrivens discloses that the broadcast services are related to broadcasting of games of a sports team (column 2, lines 30 – column 3, lines 12 and Fig. 1, 2).

Regarding **claim 27**, Scrivens and Okamoto disclose all the limitation, as discussed in claims 1 and 10.

Regarding **claim 28**, Scrivens and Okamoto disclose all the limitation, as discussed in claims 1 and 2.

Regarding **claim 29**, Scrivens and Okamoto disclose all the limitation, as discussed in claims 1 and 3.

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Regarding **claim 30**, Scrivens and Okamoto disclose all the limitation, as discussed in claims 1 and 4.

Regarding **claim 31**, Scrivens and Okamoto disclose all the limitation, as discussed in claims 1 and 5.

Regarding **claim 32**, Scrivens and Okamoto disclose all the limitation, as discussed in claims 1 and 6.

Regarding **claim 33**, Scrivens and Okamoto disclose all the limitation, as discussed in claims 1 and 7.

Regarding **claim 34**, Scrivens and Okamoto disclose all the limitation, as discussed in claims 1 and 8.

Regarding **claim 35**, Scrivens and Okamoto disclose all the limitation, as discussed in claims 1 and 10.

Regarding **claim 36**, Scrivens and Okamoto disclose all the limitation, as discussed in claims 2 and 3.

Regarding **claim 37**, Scrivens and Okamoto disclose all the limitation, as discussed in claims 4 and 19.

Regarding **claim 38**, Scrivens and Okamoto disclose all the limitation, as discussed in claims 17 and 18.

Regarding **claim 39**, Scrivens and Okamoto disclose all the limitation, as discussed in claims 1 and 19.

Regarding **claim 42**, Scrivens discloses that the at least one promotional element is an indicia which a source of one of goods and services of another (column 2, lines 30 – column 3, lines 12 and Fig. 1, 2).

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Regarding **claim 45**, Scrivens and Okamoto disclose all the limitation, as discussed in claims 1 and 10.

Regarding **claim 46**, Scrivens and Okamoto disclose all the limitation, as discussed in claims 17 and 18.

Regarding **claim 47**, Scrivens and Okamoto disclose all the limitation, as discussed in claims 1 and 10.

Regarding **claim 48**, Scrivens and Okamoto disclose all the limitation, as discussed in claims 17 and 18.

Regarding **claim 49**, Scrivens and Okamoto disclose all the limitation, as discussed in claims 1 and 10.

Regarding **claim 50**, Scrivens and Okamoto disclose all the limitation, as discussed in claims 17 and 18.

Regarding **claim 51**, Scrivens and Okamoto disclose all the limitation, as discussed in claims 17 and 18.

Regarding **claim 52**, Scrivens and Okamoto disclose all the limitation, as discussed in claims 10 and 18.

Regarding **claim 53**, Scrivens and Okamoto disclose all the limitation, as discussed in claims 10 and 18.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE**

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FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Brennan et al. (US Patent number 5,513,384) discloses Providing Multiple Broadcasts of Audio Information to Spectators.

Kenning et al. (US patent umber 5,600,730) discloses Swimming Training Device.

8. Information regarding...Patent Application Information Retrieval (PAIR) system... at 866-217-9197 (toll-free)."

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

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Washington, D.C. 20231

or faxed to:

(703) 308-9051, (for formal communications intended for entry)

Or:

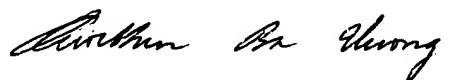
(703) 308-6606 (for informal or draft communications, please label
"PROPOSED" or "DRAFT").

Hand-delivered responses should be brought to Crystal Park II, 2121
Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

Any inquiry concerning this communication or earlier communications
from the examiner should be directed to **John J. Lee** whose telephone number is
(703) 306-5936. He can normally be reached Monday-Thursday and alternate
Fridays from 8:30am-5:00 pm. If attempts to reach the examiner are unsuccessful,
the examiner's supervisor, **Nay Aung Maung**, can be reached on (703) 308-7745.
Any inquiry of a general nature or relating to the status of this application should
be directed to the Group receptionist whose telephone number is (703) 305-4700.

J.L
August 20, 2004

John J Lee

 8/23/04

QUOCHIEN B. VUONG
PRIMARY EXAMINER